

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  MIDAMERICAN ENERGY COMPANY	DOCKET NO. P-159
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**PROPOSED DECISION AND ORDER GRANTING PERMIT**

(Issued May 15, 2002)

**APPEARANCES:**

MR. ROBERT P. JARED, Attorney at Law, MidAmerican Energy Company, 106 East Second Street, P.O. Box 4350, Davenport, Iowa 52808, appearing on behalf of MidAmerican Energy Company.

MR. CRAIG GRAZIANO, Attorney at Law, 310 Maple Street, Des Moines, Iowa 50319, appearing on behalf of the Iowa Department of Justice, Office of Consumer Advocate.

**STATEMENT OF THE CASE**

On July 20, 1976, the Iowa State Commerce Commission (predecessor agency to the Utilities Board (Board)) issued Renewal Pipeline Permit No. R-877 in Docket No. P-159 to Iowa-Illinois Gas and Electric Company (predecessor corporation to MidAmerican Energy Company) to construct, operate, and maintain a natural gas pipeline in Mahaska and Wapello Counties, Iowa. (original 1976 file; permit renewal petition; Burnett report; testimony of Mr. Grigsby) The permit was for the pipeline at issue in this case. (permit renewal petition; Burnett report; testimony of Mr. Grigsby) On January 19, 2000, MidAmerican Energy Company

(MidAmerican) filed a petition and exhibits for renewal of its natural gas pipeline permit.

The renewal petition is for approximately 22 miles of 4-inch diameter steel pipeline in Mahaska and Wapello Counties, Iowa, that supplies natural gas to Ottumwa, Iowa. The pipeline is generally referred to as the Ottumwa 2<sup>nd</sup> Lateral. (Burnett report; permit renewal petition; testimony of Mr. Grigsby)

On March 18, 2002, the Board assigned this case to a presiding officer. A procedural schedule was established by order issued on March 21, 2002. In that order, the undersigned administrative law judge set May 14, 2002, as the date for the hearing on the petition. Also in that order, the undersigned proposed to take official notice of a March 12, 2002 report concerning the pipeline prepared by Mr. Gary Burnett, a utility regulatory inspector for the Utilities Division's Safety and Engineering Section.

MidAmerican caused notice of the hearing to be published in Mahaska County in the Oskaloosa Herald, a newspaper of general circulation in the county, on April 10, 2002 and April 18, 2002. (proof of publication) MidAmerican caused notice of the hearing to be published in Wapello County in the Ottumwa Courier, a newspaper of general circulation in the county, on April 10, 2002 and April 17, 2002. (proof of publication)

MidAmerican filed prepared direct testimony of Mr. David C. Grigsby on April 5, 2002.

The hearing was held on May 14, 2002, by telephone conference call. Mr. David Grigsby, senior engineer for MidAmerican, testified on MidAmerican's behalf. The parties did not object to the taking of official notice of Mr. Burnett's report.

### **DISCUSSION OF THE EVIDENCE**

MidAmerican seeks a renewal of Permit No. R-877 to allow it to operate and maintain an existing natural gas pipeline approximately 22 miles long in Mahaska and Wapello Counties, Iowa. (permit renewal petition; testimony of Mr. Grigsby; Burnett report) The pipeline supplies natural gas to Ottumwa, Wapello County, Iowa. (testimony of Mr. Grigsby) The pipeline is generally referred to as the Ottumwa 2<sup>nd</sup> Lateral. (testimony of Mr. Grigsby)

The pipeline begins at a connection to Natural Gas Pipeline Company of America's interstate pipeline east of Oskaloosa in Mahaska County, and proceeds in a generally south-southeasterly direction to the north side of Ottumwa, terminating at the existing MidAmerican facilities within the city limits of Ottumwa, Iowa. (Burnett report; petition exhibits A and B) The pipeline is a 4-inch steel line and has a maximum allowable operating pressure of 651 psig. (Petition Exhibit C; testimony of Mr. Grigsby; Burnett report)

MidAmerican is obligated to operate and maintain this pipeline in accordance with the standards adopted by reference at 199 IAC § 10.12(1), which include the federal natural gas pipeline safety standards found in 49 C.F.R. Part 192. Mr. Gary

Burnett inspected the pipeline for compliance with these standards on August 29-31, 2001. (Burnett report) This inspection found no probable violations and no history of leaks or failures. (Burnett report) Mr. Burnett concluded the pipeline appears capable of continuing to provide service. (Burnett report)

The pipeline appears to be capable of continuing to operate safely. (testimony of Mr. Grigsby; Burnett report) It continues to meet all applicable design, construction, and testing requirements. (Burnett report; permit renewal petition; testimony of Mr. Grigsby and Mr. Burnett) No objections to the renewal of the permit were filed. (testimony of Mr. Burnett; Docket No. P-159 file)

MidAmerican owns non-pipeline property within the state, subject to execution, of a reasonable value in excess of \$250,000. (testimony of Mr. Grigsby; petition Exhibit D)

## **ANALYSIS**

Iowa Code §§ 479.12 and 479.26 (2001) apply to all petitions for pipeline permits. Section 479.12 provides that:

The board may grant a permit in whole or in part upon terms, conditions, and restrictions as to safety requirements and as to location and route as determined by it to be just and proper. Before a permit is granted to a pipeline company, the board, after a public hearing as provided in this chapter, shall determine whether the services proposed to be rendered will promote the public convenience and necessity, and an affirmative finding to that effect is a condition precedent to the granting of a permit.

Section 479.26 requires any applicant for a pipeline permit to establish that it has property subject to execution within Iowa, other than pipelines, of a value greater than \$250,000, or it must file and maintain a surety bond of the same amount. The applicant may satisfy this requirement in any of several prescribed ways. Iowa Code § 479.26; 199 IAC §10.2(1)"d."

Together, these statutes generate four issues: (1) whether the services the petitioner proposes to render will promote the public convenience and necessity; (2) whether it is just and proper to impose terms, conditions, and restrictions involving safety requirements upon the permit; (3) whether it is just and proper to impose terms, conditions, and restrictions as to location and route of the pipeline upon the permit; and (4) whether the petitioner has presented adequate proof of satisfactory financial condition.

First, the evidence shows that continued operation of this pipeline is necessary to provide natural gas service to Ottumwa, Iowa. (permit renewal petition; testimony of Mr. Grigsby; Burnett report) Therefore, the service promotes the public convenience and necessity. (permit renewal petition; testimony of Mr. Grigsby; Burnett report)

Second, the evidence shows the pipeline continues to comply with the construction, safety, and design requirements of Iowa Code Chapter 479, 199 IAC 10.12, and 49 C.F.R. Part 192. (testimony of Mr. Grigsby and Mr. Burnett; permit renewal petition; Burnett report) Therefore, there is no reason to impose

additional safety-related terms, conditions, and restrictions upon the permit.

(testimony of Mr. Grigsby and Mr. Burnett; permit renewal petition; Burnett report)

The third issue is whether terms, conditions, or restrictions as to location and route should be imposed. Iowa Code § 479.12. The pipeline was built in 1949.

(original 1976 file; testimony of Mr. Grigsby) The location and route are reasonable and there is no reason the location or route of the pipeline should be changed, or that terms, conditions, and restrictions regarding the location or route should be added to the permit. (testimony of Mr. Grigsby; permit renewal petition; Burnett report)

Finally, in accordance with Iowa Code § 479.26, MidAmerican has satisfactorily demonstrated that it has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000. (testimony of Mr. Grigsby; petition Exhibit D)

Since the pipeline was constructed prior to June 1, 1999, the requirements of Iowa Code § 479.29 do not apply.

### **FINDINGS OF FACT**

1. MidAmerican is a pipeline company within the meaning of Iowa Code § 479.2. (testimony of Mr. Grigsby)

2. The pipeline at issue in this docket was originally constructed in 1949. (testimony of Mr. Grigsby; original 1976 file) On July 20, 1976, the predecessor agency of the Board issued Renewal Pipeline Permit No. R-877 in Docket No. P-159

to Iowa-Illinois Gas and Electric Company (predecessor corporation to MidAmerican Energy Company) to construct, operate, and maintain a natural gas pipeline in Mahaska and Wapello Counties, Iowa. (original 1976 file; permit renewal petition; Burnett report; testimony of Mr. Grigsby) The permit was for the pipeline at issue in this docket. (permit renewal petition; testimony of Mr. Grigsby; Burnett report) On January 19, 2000, MidAmerican filed a petition and exhibits for renewal of its natural gas pipeline permit. (permit renewal petition; Burnett report; testimony of Mr. Grigsby)

3. MidAmerican caused notice of the hearing to be published in Mahaska County in the OSKALOOSA HERALD, a newspaper of general circulation in the county, on April 10, 2002 and April 18, 2002. (proof of publication) MidAmerican caused notice of the hearing to be published in Wapello County in the Ottumwa Courier, a newspaper of general circulation in the county, on April 10, 2002 and April 17, 2002. (proof of publication) MidAmerican filed proof of payment of the costs of publication of these notices as required by Iowa Code § 479.13 and 199 IAC 10.4. (proof of publication; proof of payment)

4. Continued operation of this pipeline is necessary to provide natural gas service to Ottumwa, Iowa. (permit renewal petition; testimony of Mr. Grigsby; Burnett report) Therefore, the service promotes the public convenience and necessity. (permit renewal petition; testimony of Mr. Grigsby; Burnett report)

5. The pipeline continues to comply with the construction, safety, and design requirements of Iowa Code Chapter 479, 199 IAC 10.12, and 49 C.F.R. Part 192. (permit renewal petition; testimony of Mr. Grigsby and Mr. Burnett; Burnett report) Therefore, there is no reason to impose additional safety-related terms, conditions, or restrictions upon the permit. (permit renewal petition; testimony of Mr. Grigsby and Mr. Burnett; Burnett report)

6. The pipeline was built in 1949. (original 1976 file; testimony of Mr. Grigsby) The location and route of the pipeline are reasonable and there is no reason the location or route of the pipeline should be changed, or that terms, conditions, or restrictions regarding the location or route should be added to the permit. (permit renewal petition; testimony of Mr. Grigsby; Burnett report)

7. MidAmerican has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000, as required by Iowa Code § 479.26 and 199 IAC § 10.2(1)"d." (testimony of Mr. Grigsby; petition Exhibit D)

8. No written objections to the petition for permit renewal were filed, and no objectors appeared at the hearing. (Docket No. P-159 file; testimony of Mr. Burnett)

### **CONCLUSIONS OF LAW**

1. The Board has the authority to grant, amend, and renew permits for the construction, operation, and maintenance of pipelines for the intrastate



transportation of natural gas. Iowa Code §§ 479.1, 479.4, 479.12, and 479.18; 199 IAC 10.7.

2. The Board has jurisdiction over MidAmerican, and over the petition for permit renewal it has filed. Iowa Code §§ 479.2, 479.5, 479.6, 479.12, and 479.18.

3. The petition of MidAmerican for renewal of Pipeline Permit No. R-877 in Docket No. P-159 should be granted. Iowa Code §§ 479.11, 479.12, and 479.26.

4. The provisions of Iowa Code § 479.29 do not apply to this permit because the pipeline was constructed prior to June 1, 1999. Iowa Code § 479.29(12).

**IT IS THEREFORE ORDERED:**

1. Official notice is taken of the report dated March 12, 2002, filed in this docket by Mr. Gary Burnett, utility regulatory inspector for the Board. Iowa Code § 17A.14(4).

2. Pursuant to Iowa Code Chapter 479, the petition for renewal of Pipeline Permit No. R-877 filed by MidAmerican in this docket is granted. A permit will be issued if this proposed decision and order becomes the final order of the Board.

3. The Board retains jurisdiction of the subject matter in this docket.

4. This proposed decision will become the final decision of the Board unless appealed to the Board within fifteen days of its issuance. Iowa Code § 17A.15(3); 199 Iowa Admin. Code § 7.8(2).

**UTILITIES BOARD**

/s/ Amy L. Christensen

Amy L. Christensen  
Administrative Law Judge

ATTEST:

/s/ Judi K. Cooper

Executive Secretary

Dated at Des Moines, Iowa, this 15<sup>th</sup> day of May, 2002.